IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANT :	Lundy LEWIS	CONFIRMATION NO.:	3634
SERIAL NUMBER :	09/577,231	EXAMINER:	David E. England
FILING DATE :	May 23, 2000	ART UNIT:	2143
FOR :	METHOD AND APPARATUS FOR COMPONENT TO SERVICE MAPPING IN SERVICE LEVEL MANAGEMENT (SLM)		

Appellant's Reply Brief Under 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I. Introduction

Appellant is filing this Reply Brief within two months of the Examiner's Answer dated November 1, 2007 (hereinafter "Answer"). This Reply Brief responds to the new points that the Examiner has raised in response to Appellant's Brief on Appeal filed August 29, 2007.

II. Status of Claims

Pending claims 4 and 13-62, which are presently on appeal, stand rejected as follows:

(1) Claim 4 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,304,892 to Bhoj et al. ("Bhoj") in view of U.S. Patent No. 6,249,755 to Yemini et al. ("Yemini").

(2) Claims 13-17, 19-35, 37-53, and 55-62 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yemini in view of Bhoj, and further in view of U.S. Patent No. 6,052,722 to Taghadoss ("Taghadoss").

(3) Claims 18, 36, and 54 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yemini, Bhoj, and Taghadoss, and further in view of U.S. Patent No. 6,233,449 to Glitho et al. ("Glitho").

III. Response to Examiner's Arguments

In the Answer, the Examiner continues to allege that Bhoj and Yemini teach the feature of "selecting one or more network components on which the service depends from among the plurality of network components," as recited in independent claim 4, for example.

More particularly, the Examiner responds to Appellant's arguments presented in the Appeal Brief, which pointed out the deficiencies of the rejection, by alleging that "most anything found in a network is understood as a 'network component' and is monitored." Answer at 16. From this presumption, the Examiner alleges that the "claim language could also be interpreted as all network components being selected and therefore if a system monitors all components all the time, this would read on the claim language." *Id.* In providing an example to support these allegations, the Examiner identifies passages in Bhoj relating to an electronic mail service (col. 9, lines 25-52), alleging that when "one 'component' of the email system is in error . . . the system 'selects' this error to find out why it is in error." *Id.*

The Examiner's arguments do not remedy the deficiencies identified in the Appeal Brief for at least the reason that the Examiner has failed to consider the entire context of the claim. For example, the aforementioned feature of claim 4 not only recites "selecting one or more network components," but further recites that the network components are selected "from among the plurality of network components," and that the network components are ones "on which the service depends." Thus, in alleging that "if a system monitors all components all the time, this would read on the claim language," the Examiner relies on the incorrect presumption that "the service depends" on every component of a network.

To the contrary, because "the network includes a plurality of network components," the claimed invention further provides for "selecting one or more network components on which the service depends from among the plurality of network components" and then "mapping the one or more selected network components to the service." As such, "to determine the state of

the service," the system need only monitor "the one or more selected network components" that have been mapped to the service. Although the claimed invention expressly recites "selecting" and "mapping" network components in this manner, the Examiner effectively fails to give these claim features their proper significance by summarily concluding that "most anything found in a network is understood as a 'network component.'" Answer at 16. For at least the reason that the Examiner has failed to identify any passage in Bhoj or Yemini that discloses, teaches, or suggests "selecting one or more network components on which the service depends from among the plurality of network components," and then "mapping the one or more selected network components to the service," the rejection is improper and must be reversed.

Further, the Examiner's allegation that Bhoj teaches the aforementioned claim features because "the system 'selects' [an] error to find out why it is in error" clearly demonstrates that the Examiner has misapplied Bhoj against the claimed invention. For example, while the definition of "network component" presented by the Examiner and taken from Appellant's specification generally includes "hardware, software, firmware, applications, processes, etc.," this definition cannot be fairly construed as extending to errors in the performance or operation thereof. Furthermore, selecting an error that causes "the server [to] not perform[] at its potential" relates, at best, to "determining a cause in the change in the state of the service." The claim feature at issue, in contrast, recites "selecting *one or more network components* on which the service depends." Thus, for at least the reason that the Examiner has misapplied the reference to the claimed invention, relying on a purported selection of errors that occur in network components rather the network components themselves, the rejection is improper and must be reversed.

The deficiencies in the rejection are further exemplified by the Examiner's allegation that Bhoj teaches "mapping the one or more selected network components to the service." In particular, while acknowledging that such feature is "not explicitly stated in Bhoj," the Examiner continues by alleging that "it could be understood that if, using the email example above, . . . the components in the email service are 'mapped' to [their] service which is email or that the cause and effect discussed in Bhoj could be interpreted as mapping a cause . . .

connected to an effect." Answer at 17. The Examiner presents similar arguments in alleging that Yemini teaches this feature, identifying passages therein in which "it is stated that a matrix is used to map *symptoms* to likely *problems*." Answer at 17 (emphasis added).

This argument raised by the Examiner also fails to cure the deficiencies of the rejection presented in the Appeal Brief because the claim feature at issue recites "mapping *the one or more selected network components* to the service." Thus, the "mapping" relates the service to the "one or more network components on which the service depends," such that "the state of the service" can be determined by "monitoring the one or more selected network components." In other words, the "selecting" of the network components and the "mapping" to the service occur prior to the subsequent operation of "determining a cause of the change in the state of the service." On the other hand, by relying upon cause diagnosis as allegedly teaching both the "selecting" and the "mapping," the Examiner has clearly failed to properly interpret the claim language. For at least this reason, the rejection is improper and must be reversed.

Additionally, regarding the Examiner's reliance on Yemini's discussion of "a matrix . . . used to map symptoms to likely problems" reflects a fundamental misinterpretation of the claim language and the reference. Yemini unequivocally relates to "determining the source of a problem in a complex system" by "[s]pecifying an event model and a propagation model" so that "problems, events and their causal relations" can be described" (col. 8, lines 17-59). Defining the relationships among problems and events relates, at best, to diagnosis of faults or other conditions that occur in network components. However, Yemini does not disclose, teach, or suggest that these relationships can be applied when "selecting" and "mapping" network components to a "service" for the purpose of "monitoring the state of the service." Rather, the causal matrix is a "data structure . . . for determining the source of a problem," and thus does not have relevance to "selecting" and "mapping" network components to a service. For at least this reason, the rejection is improper and must be reversed.

The aforementioned deficiencies in both the rejections and the Examiner's arguments are encapsulated in the Examiner's arguments on pages 17 through 19 of the Answer. More particularly, these remarks discuss distinct claim features from those previously discussed, yet

rely on identical aspects of Bhoj and Yemini as allegedly teaching these distinct features. For example, the previous remarks clarified that the Examiner has improperly applied remedial aspects of Bhoj and Yemini discussing cause and effect diagnosis to claim features that relate only to "selecting one or more network components on which the service depends" and then "mapping the one or more selected network components to the service." The Examiner's arguments on pages 17 through 19 of the Answer, however, identify the same remedial aspects as allegedly teaching "monitoring the one or more selected network components" and "determining a cause of the change in the state of the service" when it changes.

For example, the Examiner alleges that "the claim language [can be found] in the same areas cited above. To be more specific Bhoj teaches monitoring a service and if that service is in error or 'changes in a state' then it is determined what the cause." Answer at 17-18. In another example, the Examiner alleges that "both Bhoj and Yemini teach" these features "as stated above in the previous responses to arguments." Answer at 18-19. These assertions continue to demonstrate both the Examiner's misinterpretation of the claim language and the misapplication of the references to the claim language. In particular, the Examiner alleges that "Bhoj teaches monitoring *a service*," but the claim language actually recites "monitoring the one or more selected *network components*." *See* Answer at 17-18. Thus, on its face, the Examiner's argument reflects an incorrect interpretation of the claim language by substituting a service for one or more network components that have been specifically selected and mapped "*to the service*."

Because the combination of Bhoj and Yemini fails to disclose, teach, or suggest "selecting" and "mapping" network components to the service, the Examiner propagates the deficiencies with respect to those features to the latter features of "monitoring the one or more selected network components" and "determining a cause of the change in state of the service." As such, even if the passages of Bhoj and Yemini that the Examiner has relied upon could be construed as relevant to "monitoring the one or more selected network components" or "determining a cause of the change in state of the service" (e.g., as remedial aspects to be taken when a service degrades), the identical passages cannot be fairly construed as disclosing, teaching, or suggesting the distinct operations of "selecting one or more network components

on which the service depends" and "mapping the one or more selected network components to the service" (e.g., establishing the relationship between network components and the service). That is, even if changes in the state of a service related to errors in the network components, those errors would not be relevant to the "selecting" and "mapping" of network components to be monitored "to detect [the] change in the state" of the service.

Accordingly, for at least the reason that the Examiner has consistently misinterpreted the claim language and misapplied the references to the claim language throughout the rejections and the arguments, the rejections are improper and must be reversed. In particular, the Examiner has failed to properly interpret each distinct claim feature for what is expressly recited therein, and has incorrectly portrayed what the references fairly disclose, teach, or suggest as it applies to the claim language. For at least these reasons, the rejections are improper and must be reversed.

Conclusion

For at least the foregoing reasons, Appellant respectfully appeals to this Honorable Board to promptly reverse the rejections, and to issue a decision in favor in Appellant, as all of the pending claims are in condition for allowance.

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Respectfully submitted,

By: _____

Rick A. Toering
Registration No. 43,195

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Main: 703-770-7900
Fax: 703-770-7901